

OGC 80-00668
24 January 1980

MEMORANDUM FOR: C/BSD/OP

FROM: [REDACTED]

Office of General Counsel

SUBJECT: GEHA: Is GEHA Subject to ERISA?

You have asked whether GEHA is subject to ERISA. Section 4(a) of PL 93-406, 88 Stat. 829, 839, provides that ERISA:

...shall apply to any employee benefit plan if it is established or maintained--(1) by any employer engaged in commerce or in any industry or activity affecting commerce; or (2) by any employee organization or organizations representing employees engaged in commerce in any industry activity affecting commerce; or (3) by both.

CIA is not engaged in commerce and is not an actively affecting commerce. Section 4(b) further provides:

The provisions of this title shall not apply to any employee benefit plan of (1) such plan is a governmental plan (as defined in Section 3[32]).

Section 3(32) defines governmental plan as:

...a plan established or maintained for its employees by the Government of the United States, by the Government of any State, or political subdivision thereof, instrumentally of any of the foregoing.

GEHA is, therefore, not subject to ERISA.

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STATIN

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OGC - Opinion

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

GEHA: Is GEHA Subject to ERISA?

FROM: [REDACTED]		EXTENSION	NO.
OGC/O&MLD 7C40, Hqs		7231	OGC 80-00668
TO: (Officer designation, room number, and building)		DATE	DATE
		24 January 1980	
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NOTE

I held this to determine that Bob meant to sign this memo. He confirmed by phone today that he did. Ed

213/OGC on ERISA application to GEHA.